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PATENT

Application # 09/697,419

Attorney Docket # 1999P07938US01 (1009-045)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Alan D. McNutt
Application # : 09/697,419
Confirmation # : 5374
Filed : 26 October 2000
Application Title : RE-PROGRAMMABLE FLASH MEMORY MICRO
CONTROLLER AS PROGRAMMABLE LOGIC
CONTROLLER
Art Unit # : 2124
Latest Examiner : Tuan A. Vu

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ENTER DECLARATION UNDER 37 C.F.R. § 1.132

1. Applicant respectfully petitions the Commissioner to enter into the record the Replacement Declaration Under 37 C.F.R. § 1.132 of Dr. Ronald D. Williams that was filed on 19 August 2005.
2. The original Declaration Under 37 C.F.R. § 1.132 of Dr. Ronald D. Williams was filed on 2 May 2005, and was entered into the record at least by the issuance of the 27 June 2005 Office Action.
3. On page 15 of that 27 June 2005 Office Action, the Office noted that "the declaration under 37 CFR 1.132 filed 5/2/2005 is insufficient to overcome the rejection of claims 4-11..." because "the date 10/26/2000 used by the argument as the priority date of the Application is erroneous because the effective date therefor should be 10/26/1999" (emphasis added).
4. Thus, the 27 June 2005 Office Action both provided the corrected priority date and indicated that the correct priority date "should be" in the Declaration.

10/28/2005 BABRAHAI 00000078 09697419

02 FC:1464

130.00 0P

10/28/2005 BABRAHAI 00000078 09697419

03 FC:1251

120.00 0P

Page 1 of 3

PATENT

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5. To address this minor informality, for which the 27 June 2005 Office Action both provided and requested the needed correction, applicant filed the Replacement Declaration Under 37 C.F.R. § 1.132 of Dr. Ronald D. Williams on 19 August 2005.
6. The only substantive change in the Replacement Declaration versus the original Declaration was the correction of each mention of the priority date of the application to the correct priority date of 26 October 1999.
7. Via the cover sheet accompanying that Replacement Declaration, applicant explained that the Replacement Declaration was filed to "correct[] each mention of the priority date of the application to 26 October 1999".
8. Via the Advisory Action dated 7 October 2005, the Replacement Declaration was refused entry because applicant allegedly "failed to provide a showing of a good and sufficient reasons [sic] why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e)."
9. Yet applicant did explain, upon filing the Replacement Declaration, that the Replacement Declaration was being filed to "correct[] each mention of the priority date of the application to 26 October 1999", which the 27 June 2005 Office Action strongly implied, via its use of the phrase "should be", was a "good and sufficient reason why" the filing of the Replacement Declaration was "necessary".
10. Moreover, other than the correction of the inadvertent error regarding the priority date of the present application, the Declaration was "earlier presented", as acknowledged by the 27 June 2005 Office Action.
11. Further, but for the 27 June 2005 Office Action bringing to applicant's attention the fact that the original Declaration contained a inadvertent error regarding the priority date, applicant would not have known about the inadvertent error, and thus could not have "earlier presented" the Replacement Declaration.
12. Thus, applicant respectfully submits that the refusal to enter the Replacement Declaration was improper, and respectfully requests the Commissioner to enter the Replacement Declaration into the record.

PATENT

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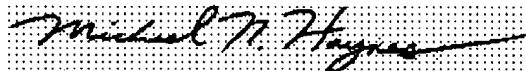
CONCLUSION

Because the refusal to enter the Replacement Declaration was improper, applicant respectfully requests that the Commissioner waive the fee associated with this Petition.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC



Date: 25 October 2005

Michael N. Haynes
Registration No. 40,014

1341 Huntersfield Close
Keswick, VA 22947
Telephone: 434-972-9988
Facsimile: 813-550-8850

To: 571-273-8300

From: Eden

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OCT 26 2005

PTO/SB/17 (12-04)

Approved for use through 07/31/2008. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).

**FEE TRANSMITTAL
For FY 2005** Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT (\$)** **750.00****Complete If Known**

Application Number	09/697,419
Filing Date	26 October 2000
First Named Inventor	McNutt, Alan
Examiner Name	Vu, Tuan A.
Art Unit	2193
Attorney Docket No.	1999P07938US01 (1009-045)

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: **50-2504** Deposit Account Name: **Michael N. Haynes**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee
 Charge any additional fee(s) or underpayments of fee(s) Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fee Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

50 25

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

200 100

Multiple dependent claims

360 180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Small Entity Fee (\$)	Small Entity Fee (\$)
- 20 or HP =	0	* 50	= 0			
HP = highest number of total claims paid for, if greater than 20						
Inden. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
- 3 or HP =	0	* 200	= 0			
HP = highest number of independent claims paid for, if greater than 3						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =		/ 50 =	0 (round up to a whole number) * 250 = 0	0

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other: Notice of Appeal, Petition fee under 37 C.F.R. 1.17 (h), First Month Extension

0

750

SUBMITTED BY		Registration No. (Attorney/Agent)	Telephone
Signature	<i>Michael N. Haynes</i>	40.014	434-972-9686
Name (Print/Type)	Michael N. Haynes		Date 26 Oct 2005

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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